

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A communication from the Governor of Maine in relation to the north-eastern boundary, and the claims of Ebenezer S. Greely, John Baker, and others.*

MAY 23, 1838.

Read, and ordered to be printed.

*To the Senate of the United States :*

I herewith transmit to the Senate the copy of a letter addressed to me on the 28th ultimo by the Governor of Maine, enclosing several resolves of the Legislature of that State, and claiming reimbursement, from the General Government, of certain moneys paid to Ebenezer S. Greely, John Baker, and others, in compensation for losses and sufferings experienced by them, respectively, under circumstances more fully explained in his excellency's letter.

In the absence of any authority, on the part of the Executive, to satisfy these claims, they are now submitted to Congress for consideration ; and I deem it proper, at the same time, with reference to the observations contained in Governor Kent's note, above mentioned, to communicate to the Senate copies of other papers connected with the subject of the northeastern boundary of the United States, which, with the documents already made public, will show the actual state of the negotiations with Great Britain on the general question.

M. VAN BUREN.

WASHINGTON, May 19, 1838.

*List of accompanying papers.*

The Governor of Maine to the President of the United States, (with enclosures,) dated April 28, 1838.

Mr. Forsyth to Mr. Fox, dated April 27, 1838.

Mr. Fox to Mr. Forsyth, dated May 1, 1838.

Mr. Forsyth to Governor Kent, dated May 8, 1838.

Blair & Rives, printers.

*The Governor of Maine to the President of the United States.*

EXECUTIVE DEPARTMENT,  
*Augusta, April 28, 1838.*

SIR: I have the honor to enclose to you a copy of a resolve of the Legislature of this State, in favor of Ebenezer S. Greely, also a copy of a resolve in favor of John Baker and others; and in compliance with the request of the Legislature, I ask of the Government of the United States a rembursement of the several sums allowed thereby, which several sums have been paid by this State, to the individuals named in the resolves.

The justice and propriety of granting this request, I can have no doubt, will be apparent to you and to Congress, when the circumstances under which the allowances were made are called to mind.

Mr. Greely, acting as agent under a law of this State, authorizing and directing a census to be taken in unincorporated places, was forcibly seized and imprisoned for several months, and then without trial released.

John Baker and his associates, named in the other resolve, suffered by imprisonment and otherwise, for acting under a law of this State, incorporating the town of Madawaska, in 1831. The State of Maine has acknowledged, by these and other resolves, its sense of obligation to remunerate, in the first instance, these sufferers in its cause, and to satisfy, as far as it is able, their claims upon its justice. But the wrongs by which they suffered were committed by a foreign power, with whom we are now at peace. The State of Maine has no power to make war, or authorize reprisals. She can only look to the General Government to assume the payment, as an act of justice to a member of the Union, under the provisions of the constitution, and to demand redress and remuneration from the authors of the wrong, in the name of the United States.

A minute recapitulation of the facts upon which these resolves are founded, is deemed entirely unnecessary and superfluous, as they have heretofore been communicated, and are well known to the Executive and to Congress.

Maine has suffered too many repetitions of similar attempts to prevent her from enjoying her rightful possessions, and enforcing her just claims, to feel indifferent on the subject; and we look with confidence to the General Government for protection and support. The amount of money, although considerable, is of comparatively small importance when contrasted with the principles involved, and the effect which must result from an immediate and ready assumption of the liability on the part of the United States.

Such an act would be highly gratifying to the people of this State, as evidence that their just claims and rights are fully recognised by the United States, and that the strong arm of the Union will be stretched out for their protection in every lawful effort to maintain and enforce their claims, which they know and feel to be just and unimpeachable, and which they are determined to maintain.

I trust I shall be pardoned for earnestly urging immediate action on the subject.

I had the honor to enclose to you, under date of the 28th of March last, a copy of my message to the Legislature, and of the resolves of the Legislature of Maine, in relation to the northeastern boundary, which I

have no doubt have received and will receive all the attention the importance of the subjects therein discussed and acted on demands. You will perceive that, in accordance with your wishes, I communicated the proposition in relation to a conventional line of boundary, with the letter of Mr. Forsyth, addressed to the Executive of Maine. The views, and wishes, and determination of the Executive and Legislature, and, I think I may safely add, of the people, of Maine, are fully and distinctly set forth in the documents referred to, communicated to you, heretofore, by me. The proposition was distinct and definite, and the answer is equally so, and I consider that it may be regarded as the fixed determination of Maine to consent to no proposition on our part to vary the treaty line, but to stand by that line, as a definite, a practicable, and a fair one, until its impracticability is demonstrated. It is needless for me to recapitulate the reasons upon which this determination is founded. I refer you to the documents before alluded to for my own views on this topic, sanctioned fully by the Legislature. The duty devolving upon me, by your request, I have endeavored to discharge, in a spirit of profound respect for the constituted officers of the General Government, and with a single eye to the interest and honor of the United States and of the State of Maine. The attitude assumed by Maine in relation to the survey of the line of the treaty of 1783, has doubtless attracted your attention. I feel it due to the State to say to you, frankly and unequivocally, that this position was taken deliberately, and with a full consideration of all the circumstances of the case. But it was assumed in no spirit of defiance or resistance, and with no design to embarrass the action of the General Government. Maine feels no desire to act alone or independently on this question. She knows and feels that it is a national question, and that it is the right and duty of the General Government to move forward in effecting the object proposed.

I feel fully warranted in saying that Maine does not intend, by this expression of her determination to run the line in a certain contingency, to waive, in the least degree, her well founded claim upon the General Government to run, mark, and establish it. On the contrary, she will most reluctantly yield the hope she now so strongly feels, that it is the intention of that Government to relieve her from the necessity of throwing herself upon her own resources to assert and defend her most unquestionable right. The wish of this State is, that the first act should be to run the line of the treaty of 1783, to ascertain the facts in relation to the topography of the country, and the exact spot where the northwest angle of Nova Scotia may be found, according to our construction of the treaty language, and to place suitable monuments along the whole line. Such a survey would not settle or determine any rights, but it would express and declare our views and intentions. Such a survey is not a warlike or offensive movement, and cannot justly give offence to the other party in the controversy. It is the unquestionable right of litigants in a court of justice to make explorations of land in dispute, and if either party declines a joint survey, it may be made *ex parte*. And surely the United States have never so far yielded the actual possession to Great Britain, as to preclude the right, on our part, to ascertain for ourselves the absolute facts, and to mark out the limits of our claim and our alleged right.

This act Maine asks, and asks earnestly, the General Government to perform without delay. Such an assumption of the controversy, on the part of the United States, would be to Maine an assurance that her rights

were duly regarded, and would be steadily and perseveringly maintained. We want the name and the authority of the United States, and there can be no doubt, that an act emanating from that source would be regarded by those interested, on both sides, as of more importance than any act of an individual State. So far, then, from any indifference on the part of Maine, as to the action of the General Government, or any desire to be driven to assume the performance of the duty alluded to, she looks with intense anxiety and confident hope to be relieved from this position. She believes it is alike due to the honor of the United States and the rights of Maine, that the General Government should go forward in the work, and that there is less to apprehend, in the result, from such a course, than any other. But Maine feels that the time for decisive action has come; that she cannot be satisfied to have the claim to absolute and exclusive jurisdiction of a large part of her territory longer tolerated and acquiesced in. She knows that it rightfully belongs to her jurisdiction; that it is hers by a clear, perfect, and honest title, as clear, as perfect, and rightful, as her title to any portion of the State; and she cannot consent to have this title impaired, or weakened, by bold encroachments and unscrupulous demands. She cannot consent that a title, transmitted by the fathers of the revolution, shall be destroyed or defeated, by acquiescence in the adverse occupation of a foreign State, and that what was once fairly yielded shall be reclaimed, in utter defiance of a solemn deed of cession. I am confident I am not mistaken in stating, that the Legislature of Maine considered the question as fairly and plainly before the National Government, and that, if the present session of Congress should close with a denial or postponement of the proposed survey, and no commission should be created by the Executive, as contemplated in the resolution referred to, we should have a right, and be bound to regard such a delay or refusal, as evidence of an indisposition on the part of the General Government to accede to our expressed views and wishes, and a denial of justice, and that Maine, in that event, owed it to herself to cause the survey to be made under her own authority. The duty of the Executive of Maine is plainly pointed out, and made imperative and absolute, by the resolves of the Legislature, and I certainly cannot hesitate, so far as I have the means and power, to execute their declared will.

The people of Maine, sir, are not desirous of conflict or war. Both in their habits and their principles, they love and wish for peace and quiet within their borders. They are not ambitious to win laurels, or to acquire military glory, by waging war with their neighbors; and least of all are they desirous of a border warfare, which may be the means of sacrificing human life and engendering ill will and bad passions, without bringing the controversy to a conclusion. They are scattered over our thousand hills, engaged in their quiet and peaceful labors, and it is the first wish of their hearts to live peaceably with all men and all nations. They have no anxiety to extend our limits or to gain territory by conquest; but there is a firm and determined spirit in this people which cannot brook insult and will not submit to intentional injury. "They know their rights, and knowing dare maintain them," with calm determination and deliberate purpose; and they appeal, with unshrinking confidence, to their sister States, and to the Government which binds them together, for effective support in this their purpose.

The crisis, as we believe, demands firm and decided language, and the expression of a determined design. Maine has never refused to acquiesce



in any fair and honorable mode of fixing the line *according to the treaty of 1783*. I have no doubt (but upon this point I speak according to my individual belief) that the mode proposed to Great Britain, of establishing the treaty line upon the face of the earth, by a commission composed of impartial and scientific men, to be selected by a friendly power, would be satisfactory, and acquiesced in by this State; but that we should neither ask nor agree that any preliminary points should be yielded by either party. We should only ask that the treaty should be placed in their hands, with directions to ascertain and run and fix the line according to its plain language and obvious meaning.

Maine can never consent, as I apprehend, to yield the main points of the case, and then refer it, to enable the judges to divide the subject matter of the controversy.

We feel that we now stand on the high vantage ground of truth and justice, and that it cannot be that any nation, professing to act on the principles of right and equity, can stand up before the civilized world and contest, with unyielding pertinacity, our claim. We have too much respect for the nation from which we descended, to believe that she will sully her reputation by such persevering resistance.

I am conscious that the language and style of this communication are unusual, and probably undiplomatic; that there is more of the fervor of feeling, and the plain language of direct appeal, than is usual in such papers. But it is a subject of such vast importance to the State, whose interests have been in part intrusted to me, and whose organ I am, that I cannot speak in measured terms, or indefinite language. On this subject we have no ulterior views, and no concealed objects. Our plans and our policy are open and exposed to the view of all men. Maine has nothing in either to conceal or disguise. She plainly and distinctly asks for specific and definite action. In performing what I conceive to be my duty, I have been actuated by entire respect towards the General Government, and by the single desire to explain and enforce, as well as I was able, our wishes and our rights. I can only add that we trust the General Government will assume the performance of the act specified in the resolution, and relieve Maine from the necessity of independent action.

With great respect,

I have the honor to be

Your most obedient servant,

EDWARD KENT.

His excellency MARTIN VAN BUREN,

*President of the United States.*

## STATE OF MAINE.

### *Resolve in favor of Ebenezer S. Greely.*

*Resolved*, That there be allowed and paid out of the Treasury of this State to Ebenezer S. Greely, five hundred dollars, which sum is in full for all sufferings and losses attendant upon his arrest and imprisonment in the jail at Fredericton, New Brunswick, in consequence of taking the census of Madawaska.

*Resolved*, That the Governor of this State be requested to ask and receive of the Government of the United States, a reimbursement of the sum

hereby allowed to the said Greely, after the same shall have been paid to him out of the Treasury of this State.

IN THE HOUSE OF REPRESENTATIVES,  
March 12, 1838.

Read and passed.

ELISHA H. ALLEN, *Speaker*.

IN SENATE, March 12, 1838.

Read and passed.

N. S. LITTLEFIELD, *President*.

MARCH 12, 1838. Approved,

EDWARD KENT.

STATE OF MAINE,  
*Secretary's office, Augusta, April 23, 1838.*

A true copy of the original on file in this office.

Attest :

SAML. P. BENSON,  
*Secretary of State.*

### STATE OF MAINE.

*Resolve in favor of John Baker, Walter Powers, Nathaniel Bartlett, Augustine Webster, Isaac Yearington, and John Harford, jr.*

*Resolved*, That there be allowed, and paid out of the Treasury of this State, to the persons hereinafter named, inhabitants of the town of Madawaska, the following sums : To John Baker, three hundred and fifty dollars ; to Walter Powers, one hundred and twenty-five dollars ; to Nathaniel Bartlett, Augustine Webster, Isaac Yearington, and John Harford, jr., each, the sum of fifty dollars ; which said several sums are in full compensation for all sufferings and losses, in consequence of organizing that town, in the year one thousand eight hundred and thirty-one, under a warrant from William D. Williamson, Esq. ; and, also, in full for all claims to this time.

*Resolved*, That the Governor of this State be requested to ask and receive of the Government of the United States, a reimbursement of the several sums hereby allowed to the said Baker, Powers, Bartlett, Webster, Yearington, and Harford, after the same shall have been paid to them out of the Treasury of this State.

IN THE HOUSE OF REPRESENTATIVES,  
March 17, 1838.

Read and passed.

ELISHA H. ALLEN, *Speaker*.

IN SENATE, March 19, 1838.

Read and passed.

N. S. LITTLEFIELD, *President*.

MARCH 19, 1838. Approved.

EDWARD KENT.

STATE OF MAINE.

*Secretary's Office, Augusta, April 23, 1838.*

A true copy of the original in this office.

Attest:

SAML. P. BENSON,  
*Secretary of State.*

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*Mr. Forsyth to Mr. Fox.*

DEPARTMENT OF STATE,

*Washington, April 27, 1838.*

SIR: The undersigned, Secretary of State of the United States, has the honor, by the directions of the President, to communicate to Mr. Fox, her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, the result of the application of the General Government to the State of Maine, on the subject of the northeastern boundary line, and the resolution which the President has formed upon a careful consideration thereof. By the accompanying papers \*received from the Executive of Maine, Mr. Fox will perceive that Maine declines to give a consent to the negotiation for a conventional boundary; is disinclined to the reference of the points in dispute to a new arbitration; but is yet firmly persuaded that the line described in the treaty of 1783 can be found and traced whenever the Governments of the United States and Great Britain shall proceed to make the requisite investigations with a predisposition to effect that very desirable object. Confidently relying, as the President does, upon the assurance frequently repeated by the British Government of the earnest desire to reach that result, if it is practicable, he has instructed the undersigned to announce to Mr. Fox the willingness of this Government to enter into an arrangement with Great Britain for the establishment of a joint commission of survey and exploration upon the basis of the original American proposition and the modifications offered by her Majesty's Government.

The Secretary of State is, therefore, authorized to invite Mr. Fox to a conference upon the subject at as early a day as his convenience will permit; and the undersigned will be immediately furnished with a requisite full power by the President, to conclude a convention embracing that object, if her Majesty's Minister is duly empowered to proceed to the negotiation of it on the part of Great Britain.

The undersigned avails himself of this occasion to renew to Mr. Fox the expression of his distinguished consideration.

JOHN FORSYTH.

HENRY S. FOX, Esq.

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*Mr. Fox to Mr. Forsyth.*

WASHINGTON, May 1, 1838.

SIR: I have the honor to acknowledge the receipt of your official note the 27th ultimo, in which you enclosed to me a communication received by the Federal Government from the Executive of Maine upon the subject of the northeastern boundary line, and in which you inform me that the President is willing to enter into an arrangement with her Majesty's Gov-

\* Vide Senate document No. 424, 2d session 25th Congress.

ernment for the establishment of a joint commission of survey and exploration, upon the basis of the original American proposition, and of the modifications offered by her Majesty's Government, as communicated to you in my note of the 10th of January last; and you invite me to a conference, for the purpose of negotiating a convention that shall embrace the above object, if I am duly empowered by my Government to proceed to such negotiation.

I have the honor to state to you, in reply, that my actual instructions were fulfilled by the delivery of the communication which I addressed to you on the 10th of January; and that I am not at present provided with full powers for negotiating the proposed convention. I will, forthwith, however, transmit to her Majesty's Government the note which I have had the honor to receive from you, in order that such fresh instructions may be furnished to me, or such other steps taken, as the present situation of the question may appear to her Majesty's Government to require. I avail myself of this occasion to renew to you the assurance of my high respect and consideration.

H. S. FOX.

The honorable JOHN FORSYTH:

*Mr. Forsyth to Governor Kent.*

DEPARTMENT OF STATE,  
Washington, May 8, 1838.

SIR: I have the honor to acknowledge the receipt, on the 22d ultimo, of the communication addressed to this department by your excellency on the 28th of March last, transmitting a printed copy of your message of the 14th of the same month to the Legislature of Maine, together with certain resolves passed by that body in relation to the northeastern boundary of the State. Although the answer thus given to the application made to you by direction of the President, under date of the 1st of March last, to ascertain the sense of the State of Maine in regard to a conventional line of boundary, may be regarded as conclusive, I still deem it proper, with reference to your excellency's message, to mark a misconception which appears to have existed on your part when communicating to the Legislature the letter and documents received from this department. This is done with the greater freedom, since the frank and liberal manner in which your excellency invited the attention of that body to the subject is highly appreciated by the President. The question therein presented for consideration was not, as your excellency supposed, whether the State of Maine should "take the lead in abandoning the treaty, and volunteer propositions for a conventional line," but simply whether the Government of Maine would consent that the General Government should entertain a direct negotiation with the British Government for a conventional line of boundary on the northeastern frontier of the United States. Had that consent been given, it would have been reasonable to expect the proposition of a line from Great Britain, as it was that power which particularly desired the resort to that mode of settling the controversy. It was, also, the intention of the President so to arrange the negotiation that the approbation of Maine to the boundary line agreed upon should have been secured. It was with this view that, in the application to the State of Maine for its assent to a negotiation for a conventional line, express reference was made to such



conditions as she might think proper to prescribe. To all such as were, in the opinion of the President, required by a proper regard for the security of Maine, and consistent with the constitution, he would have yielded a ready assent. Of that character was he disposed to regard a condition that in a negotiation for the final establishment of a new line, with power on the part of the negotiators to stipulate for the cession or exchange of territory, as the interests and convenience of the parties might be found to require, the State of Maine should be represented by commissioners of her own selection, and that their previous assent should be requisite to make any treaty, containing such stipulation, binding upon her.

These suggestions are not now made as matter of complaint at the decision which the State of Maine has come to, on a matter in which she was at perfect liberty to pursue the course she has adopted, but in justice to the views of the President in making the application.

I am instructed to announce to your excellency, that, by direction of the President, upon due consideration of the result of the late application of the General Government to the State of Maine, on the subject of the northeastern boundary, and in accordance with the expressed wishes of her Legislature, I have informed Mr. Fox of the willingness of this Government to enter into an arrangement with that of Great Britain for the establishment of a joint commission of survey and exploration upon the basis of the original American proposition and the modifications offered by her Majesty's Government; and to apprise you that Mr. Fox, being at present unprovided with full powers for negotiating the proposed convention, has transmitted my communication to his Government, in order that such fresh instructions may be furnished to him, or such other steps taken, as may be deemed expedient on its part.

I have the honor to be,

With great respect,

Your excellency's obedient servant,

JOHN FORSYTH.

To his excellency EDWARD KENT,

*Governor of Maine.*

conditions as she might think proper to prescribe. To all such as were in the opinion of the President required by a proper regard for the security of Maine, and consistent with the constitution, he would have yielded a ready assent. Of that character was the proposal to regard a condition that in a negotiation for the final establishment of a new line with power on the part of the negotiators to stipulate for the parties might be found to require, as the interests and convenience of the parties might be found to require, the State of Maine should be represented by commissioners of her own selection, and that their previous assent should be required to make any treaty containing such stipulation binding upon her. These suggestions are not now made as matters of complaint at the decision which the State of Maine has come to, on a matter in which she was at perfect liberty to pursue the course she has adopted, but in justice to the views of the President in making the application.

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I have the honor to be, Sir, your obedient servant,  
With great respect,  
Your excellency's obedient servant,  
JOHN FORSYTH

To his excellency Edward Kent,  
Governor of Maine.  
The President of the United States, in pursuance of the act of Congress, passed on the 22d of March, 1820, has the honor to inform you, that he has received from the Secretary of State, a copy of a communication from the British Government, in relation to the northeastern boundary of the State of Maine, and that he has caused the same to be laid before the Senate of the United States, for their consideration. The communication from the British Government, is in the following words: "The British Government has the honor to inform the American Government, that it has received from the Secretary of State, a copy of a communication from the American Government, in relation to the northeastern boundary of the State of Maine, and that it has caused the same to be laid before the House of Commons, for their consideration. The communication from the American Government, is in the following words: 'The American Government has the honor to inform the British Government, that it has received from the Secretary of State, a copy of a communication from the British Government, in relation to the northeastern boundary of the State of Maine, and that it has caused the same to be laid before the Senate of the United States, for their consideration.'"